

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

ARGUS LEADER MEDIA, d/b/a Argus Leader, Plaintiff, vs. UNITED STATES DEPARTMENT OF AGRICULTURE, Defendant.	4:11-CV-04121-KES ORDER GRANTING SECOND MOTION FOR ATTORNEY FEES AND COSTS
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Plaintiff, Argus Leader Media, moves for additional attorney fees and costs for the fees incurred in filing the motion for attorney fees. Docket 194. Defendant, United States Department of Agriculture (USDA), opposes the motion. For the reasons stated below, the court grants Argus's motion.

Argus moves for an additional fee of \$2900 for 14.5 hours at \$200 per hour as reasonable compensation for the time spent preparing the motion and brief to initially recover attorney fees. Such hours are compensable as "fees on fees." *See Noxell Corp. v. Firehouse No. 1 Bar-B-Que Rest.*, 771 F.2d 521, 528 (D.C. Cir. 1985). Additionally, the number of hours and the rate are both reasonable. Although Argus waited until after its initial attorney fees request was granted to file this motion, the court finds that the delay was reasonable under the circumstances. In the event Argus is ultimately successful on appeal, the judgment for attorney fees and costs will also include this amount.

Because Argus is entitled to an award of “fees on fees,” it is

ORDERED that Argus’s motion for attorney’s fees (Docket 194) is granted in the amount of \$2,900, which will be due and owing if the underlying order on the FOIA matter is affirmed by the Eighth Circuit Court of Appeals. Judgment will be entered at that time.

DATED this 19th day of October, 2017.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER
UNITED STATES DISTRICT JUDGE